

Section 2.14 Rule Enforcement

This section outlines the rule enforcement procedures that the Bureau uses.

PART 1: INSPECTIONS

1. Each licensed or certified child care provider receives two inspections each year to determine compliance with the licensing rules.
 - A. Announced Inspection. This inspection is scheduled with the provider in advance, in the months before the license or certificate expires. The purpose of the inspection is to determine satisfactory compliance with the rules before the license or certificate is renewed.
 - B. Unannounced Inspection. This inspection is not scheduled in advance with the provider. It is significantly shorter than the Announced Inspection compliance with only the most high harm rules is assessed.
2. Complaints. In addition to the Announced and Unannounced Inspections, inspections will also be conducted if the Bureau receives a complaint about a provider that alleges licensing rule violations.
3. Follow-up visits. If there are findings of rule violations during an inspection, the Licensing Specialist may make one or more follow-up inspections to determine if the noncompliance has been corrected. If ongoing or new noncompliance requires more than one follow-up visit after an inspection, there will be a \$25 charge for each additional follow-up visit.

PART 2: FINDINGS OF NONCOMPLIANCE

1. The Bureau issues a "Statement of Findings" after any inspection on which rule violations are found. There are two general categories of findings.
 - A. Technical Assistance Findings
 - i. Technical assistance (TA) findings are less serious findings than cited findings. If a provider corrects a technical assistance finding, that finding is not part of the provider's public record.
 - ii. For level 2 technical assistance findings (for centers) or TA1 findings (for home providers), the provider has one chance to correct the finding before it is cited and

becomes part of the provider's public record.

- iii. For level 3 technical assistance findings (for centers) or TA2 findings (for home providers), the provider has two chances to correct the finding before it is cited and becomes part of the provider's public record.

B. Cited Findings. Cited findings are more serious findings, or technical assistance findings that have not been corrected and have thus risen to the level of becoming a cited finding. Cited findings are part of a provider's public record.

2. Statements of Findings are mailed to providers after the inspection takes place.

PART 3: CIVIL MONEY PENALTIES

1. A Civil Money Penalty (CMP) is assessed for any **cited** finding that is not corrected at the next inspection. This means that each Statement of Findings and cover letter which includes a cited finding will also include the warning that a CMP will be assessed if the noncompliance is not corrected.
2. The Licensing Specialist is to alert the Regional Manager via e-mail or by including a note with the Statement of Findings when a CMP is to be assessed. The Regional Manager will then prepare the License or Certificate CMP letter, Appendix 1, Appendix 2, and have it mailed with the Statement of Findings. The Regional Manager is responsible for tracking CMPs and ensuring they are paid by their due date by entering information into the regional spread sheet found in the CMP folder in the Bureau's shared drive .
3. Any Statement of Findings and cover letter issued that include the actual assessment of a CMP should also include the warning that an ***additional*** CMP will be assessed if the noncompliance is not corrected. See Appendix 3 for instructions on how to determine when a finding rises to the level of being a cited finding.
4. If a cited finding is issued and the finding is corrected at the next inspection, but is out of compliance again at a later inspection, a CMP is not assessed. CMPs are only assessed when a cited finding is out of compliance on two consecutive inspections. See Appendix 4 for a flow chart explaining this.
5. CMP Amounts
 - A. CMPs for Level 1 Cited (for centers) and Cited (for home providers) Noncompliance Findings are assessed at \$100 per finding with the following clarifications:
 - i. CMPs for Level 1 Cited Findings (for centers) and Cited Findings (for home providers) to rules associated with capacity, caregiver to child ratios and maximum group size are assessed at \$100 per child over capacity, ratio and/or over group size.

- ii. CMPs for Level 1 Cited Findings (for centers) and Cited Findings (for home providers) to rules associated with direct supervision are assessed at \$100.00 per unsupervised child.
 - iii. CMPs for Level 1 Cited Findings (for centers) and Cited Findings (for home providers) to rules associated with CBS forms are assessed at \$100.00 per individual.
 - iv. CMPs for Level 1 Cited Findings (for centers) and Cited Findings (for home providers) to rules associated with square footage are assessed at \$100.00 per child over allowed capacity.
 - B. CMPs for Level 2 Cited (for centers) and TA 1 Cited (for home providers) Noncompliance Findings are assessed at \$75 per finding with the following clarifications:
 - i. CMPs for Level 2 Cited Findings (for centers) and TA 1 Cited Findings (for home providers) to rules associated with caregiver to child ratios and maximum group size are assessed at \$75 per child over ratio and/or over group size.
 - ii. CMPs for Level 2 Cited Findings (for centers) and TA 1 Cited Findings (for home providers) to rules associated with CBS forms are assessed at \$75 per individual.
 - iii. CMPs for Level 2 Cited Findings (for centers) and TA 1 Cited Findings (for home providers) to rules associated with square footage are assessed at \$75 per child over allowed capacity.
 - C. CMPs for Level 3 Cited Findings (for centers) and TA 2 Cited Findings (for home providers) are assessed at \$50 per finding with the following clarification:
 - i. CMPs for Level 3 Cited Findings (for centers) and TA 2 Cited Findings (for home providers) to rules associated with caregiver to child ratios and maximum group size are assessed at \$50 per child over ratio and/or over group size.
 - D. If the repeat finding resulting in the Civil Money Penalty is of a lower noncompliance level than the previous finding, the Civil Money Penalty is assessed at the level of the finding resulting in the Civil Money Penalty.
 - E. A \$100 CMP is to be assessed if a Licensing Specialist has proof that a provider did any of the following:
 - i. Falsified a document.
 - ii. Lied about the number of children in care and/or hid children in care to avoid findings to ratios and/or capacity rules
 - iii. Gave false information about who lives in the home for background screenings
8. Reducing and Rescinding Civil Money Penalties
- A. After an Informal Discussion, the Regional Manager can rescind or reduce a CMP for any of the following reasons.

- i. If the finding which prompted the CMP was rescinded.
- ii. If the provider can provide documentation of costs incurred for coming into compliance with the finding which resulted in the CMP.
- iii. If the provider attends Bureau training on the rule(s) for which prompted the CMP, the CMP for each rule for which training was received can be reduced by fifty percent.
 - a. The training must be completed or scheduled before the due date of the Civil Money Penalty.
 - b. The training must be attended by the licensee/certificate holder for home providers and by the center owner/director and at least the staff involved in the noncompliance issue(s) for center providers.
 - c. CMPs can only be reduced for training completion one time a year for each rule which prompted the CMP.
- B. Upon request, Regional Managers can also set up a payment plan for assessed CMPs.
- C. After an Informal Discussion, the Regional Manager is to prepare and have the Office Specialist scan and mail the CMP Informal Discussion Letter. Section 2.21 Appendix 2
- D. After an Informal Discussion, the Regional Manager is to have the Office Specialist scan all relevant documents from the Informal Discussion.

PART 4: CONDITIONAL LICENSE OR CERTIFICATE

1. A conditional license may be issued for repeated and/or serious rule violations which the provider does not correct.
2. A conditional license is a last opportunity for the provider to come into compliance with the rules, prior to the revocation of their license or certificate. It is a probationary period in which increased monitoring of the facility takes place in order to closely monitor rule compliance and ensure children's health and safety.
3. If a civil money penalty only (without conditional license or certificate) has been issued prior to the issuance of a conditional license or certificate, a repeat civil money penalty may be assessed at the time the conditional license or certificate is issued, for those rules that are still out of compliance, and result in the conditional license being issued.
4. A conditional license is typically issued for 6 months. This period may be lengthened if the provider has made some progress toward coming into compliance with the rule(s), but is not yet in full compliance.

5. A conditional license may also be issued to a provider immediately, without a prior Statement of Findings or CMP, if a death or serious injury of a child occurs. In such situations, the length of the conditional license will depend on the outcome of the investigation into the child injury or fatality.

PART 5: NOTICE OF INTENT TO REVOKE A LICENSE OR CERTIFICATE

1. A Notice of Intent to Revoke a License or Certificate is issued during the last 30 days of a conditional license period, if the provider has not made significant process toward coming into compliance with the rules.
2. A Notice of Intent to Revoke a Child Care License or Certificate is intended to communicate to the provider that the revocation of their license or certificate will take place, if the specific conditions outlined in the notice are not followed.
3. A repeat civil money penalty may be assessed when a Notice of Intent to Revoke is issued, for those rules that are repeat violations.

PART 6: REVOCATION OF A LICENSE OR CERTIFICATE

1. The following circumstances may result in the revocation of a license or certificate
 - A. If a provider fails to come into compliance with the rules during a conditional license period.
 - B. If a provider fails to come into compliance with the rules after a Notice of Intent to Revoke the License/Certificate has been issued.
 - C. If a provider's violation of one or more rules is egregious to such a degree that it places the health and safety of children in serious jeopardy.
 - D. If a provider gives false information to the Bureau.
 - F. If a provider refuses to make available to the Bureau any written documentation required to conduct an inspection or investigation.
 - G. If a provider is excluded from holding a child care license or certificate under R430-6 (Background Screening).
 - H. A provider fails to pay a licensing fee or Civil Money Penalty by its due date.
 - I. If a provider refuses to allow authorized representatives of the Bureau with a Department of Health ID badge access to the facility in order to determine compliance with the rules.

2. When a Notice of Revocation has been issued, the provider has 30 days to appeal the revocation, and must notify the parents of all children in care that the license has been revoked, in order to allow parents time to find other care for their children. The provider may care for children during this 30 day appeal period.
3. On the date which the revocation becomes final after the 30 day appeal period, the Licensing Specialist should make a monitoring visit to the facility, to ensure that care is not being provided illegally.

PART 7: IMMEDIATE CLOSURE ORDER

1. In situations in which the Bureau has determined that children are in immediate jeopardy due to a serious, high-risk non-compliance issue, a license may be revoked and an immediate closure of the facility ordered at the same time.
2. An immediate closure order can only be signed by the Executive Director of the Department of Health, or a designee whom s/he has authorized.
3. An immediate closure order means that parents must be contacted and children sent home on the day the revocation and immediate closure order is delivered, and the program may no longer care for children.
4. Immediate closure orders are hand delivered, and the Bureau staff delivering them will remain at the facility until all children have been picked up, and the facility is closed. Following an immediate closure order, the licensor will make periodic visits to the facility to ensure that care is not being provided in violation of the closure order.
5. When an Immediate Closure Order has been served, the provider may not continue to care for children during the 30 day appeal period.

PART 8: IMMEDIATE TEMPORARY CLOSURES

1. When there is a child fatality in a regulated facility, the Bureau may issue a temporary closure and revocation of the facility's license or certificate while the circumstances of the death are reviewed.
2. After a review of the circumstances of the death, the Bureau will determine if the revocation is permanent, or if the license or certificate will be reinstated, and if there will be any conditions with that reinstatement.